



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

NOV 22 2016

Rebecca Becker, Assistant Vice President
EQR-249 Third Street LLC
Two N. Riverside Plaza, Suite 400
Chicago, Illinois 60606-2609

Re: PCB Cleanup and Disposal Approval under 40 CFR §§ 761.61(a) and (c)
249 Third Street
Cambridge, Massachusetts

Dear Ms. Becker:

This is in response to the EQR-249 Third Street LLC (Third Street) Notification¹ to address PCBs identified on the property located at 249 Third Street, Cambridge, Massachusetts. Specifically, fill materials (e.g., soil, debris, etc.) located on the southern portion of the property and identified as Area B (hereinafter "the Site") was found to contain PCBs at concentrations that exceed the allowable PCB levels for unrestricted use under the federal PCB regulations at 40 CFR § 761.61(a). Third Street has requested an approval to clean up and dispose of the PCB-contaminated soil, debris, and asphalt located at the Site under the PCB self-implementing cleanup and disposal option at 40 CFR § 761.61(a).

Third Street is proposing the following PCB cleanup and disposal activities under § 761.61(a):

- Remove *PCB remediation waste* located in Area B to a depth of 8 feet below ground surface (ft bgs) and dispose as a greater than or equal to (\geq) 50 parts per million (ppm) PCB waste in accordance with 40 CFR § 761.61(a)(5)(i)(B)(2)(iii)
- Remove *PCB remediation waste* with less than ($<$) 50 ppm (i.e., soil and debris at depths greater than 8 ft bgs) and dispose in accordance with 40 CFR § 761.61(a)(5)(i)(B)(2)(ii)

¹ Information was submitted on behalf of EQR-249 Third Street LLC by CDM Smith. The information was provided to satisfy the notification requirement under 40 CFR § 761.61(a). Information was provided dated September 14, 2016 (SIP); October 28, 2016 (Response to Comments); November 2016 (Revised SIP); November 02, 2016 (Email response to EPA comments); November 10, 2016 (email clarification on excavation depth); and, November 17, 2016 (email clarification on Parcel B classification and concrete/foundation sampling). These submittals will be referred to as the "Notification."

- Collect verification samples in accordance with Subpart O from Subarea B2 and from the locations identified as grids B18, B19, C16, F16, K14, and L14 of Subarea B1 to confirm that the less than or equal to (\leq) 1 ppm PCB cleanup standard has been met; and, collect samples from the western, southern, and eastern sidewalls of Area B, to confirm PCB concentrations at the property boundaries.

With exception of the verification sampling frequency, the Notification meets the requirements and standards established under § 761.61(a) for cleanup and disposal of *PCB remediation waste*. Given the characterization sampling results and the proposed plan, which includes removal of all Site soil to a minimum depth of 12 ft bgs, EPA has determined that the proposed alternative sampling frequency will be adequate to confirm that PCB cleanup standard has been met. EPA finds that the alternative sampling frequency proposed by Third Street will not pose an unreasonable risk to health or the environment when conducted in accordance with the Notification and this Approval. EPA may approve the sampling under § 761.61(c).

This Approval only addresses cleanup and disposal of the *PCB remediation waste* (i.e., Area B) identified in the Notification. This Approval does not address cleanup of PCB-contaminated soil with < 50 ppm located on Area A as Third Street has determined that these PCB-contaminated soils do not meet the definition of a *PCB remediation waste* as defined at 40 CFR § 761.3. In the event that Third Street determines that these PCB-contaminated soils are a *PCB remediation waste* or identifies other PCB-contaminated wastes subject to cleanup and disposal under the PCB regulations, Third Street will be required to notify EPA and clean up the PCB-contaminated wastes in accordance with 40 CFR Part 761 (see Approval Condition 1).

EPA encourages the compliance with greener cleanup practices for all cleanup projects, and recommends adherence to the ASTM Standard Guide to Greener Cleanups E2893-16 ("Guide") for work conducted under this Approval and the Notification. Greener cleanups is the practice of integrating options that minimize the environmental impacts of cleanup actions in order to incorporate practices that maximize environmental and human benefit. Please see Section 6 of the Guide for the Best Management Practices ("BMP") Process published May 2016 (see www.astm.org/Standards/E2893.htm for additional information). EPA encourages you to review the Guide and implement any practices that are feasible. If implemented, the PCB completion report (see Attachment 1, Condition 21) should include a section on BMP Documentation, as described in Section 6.6.5 of the Guide.

This Approval does not release Third Street from any applicable requirements of federal, state or local law, including the requirements related to cleanup and disposal of PCBs and other Site contaminants under the Massachusetts Department of Environmental Protection (MassDEP) regulations.

Questions and correspondence regarding this Approval should be directed to:

Kimberly N. Tisa, PCB Coordinator (OSRR07-2)
United States Environmental Protection Agency
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912
Telephone: (617) 918-1527
Facsimile: (617) 918-0527

EPA shall not consider this project complete until it has received all submittals required under this Approval. Please be aware that upon EPA receipt and review of the submittals, EPA may request any additional information necessary to establish that the work has been completed in accordance with 40 CFR Part 761, the Notification, and this Approval.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bryan Olson for".

Bryan Olson, Director
Office of Site Remediation & Restoration

Attachment 1

cc: Kathleen Murphy, CDM Smith
MassDEP, Northeast Region, RTN: 3-32341
File

ATTACHMENT 1

PCB CLEANUP AND DISPOSAL APPROVAL CONDITIONS 249 THIRD STREET – AREA B (“the Site”) CAMBRIDGE, MASSACHUSETTS

GENERAL CONDITIONS

1. This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to *PCB remediation waste* located at the Site as identified in the Notification.
 - a. In the event that EQR- 249 Third Street LLC (Third Street) identifies other PCB-contaminated wastes subject to cleanup and disposal under the PCB regulations, and/or determines that PCB-contaminated soil on Area A is a *PCB remediation waste* as defined at 40 CFR § 761.3, Third Street will be required to notify EPA and to clean up the PCB-contaminated wastes in accordance with 40 CFR Part 761.
 - b. Third Street may submit a separate plan to address the PCB contamination or may modify the Notification to incorporate cleanup of the PCBs under this Approval in accordance with Condition 16.
2. Third Street shall conduct on-site activities in accordance with the conditions of this Approval and with the Notification.
3. In the event that the cleanup plan described in the Notification differs from the conditions specified in this Approval, the conditions of this Approval shall govern.
4. The terms and abbreviations used herein shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.
5. Third Street must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval. In the event of a new spill during response actions, Third Street shall contact EPA within 24 hours for direction on sampling and cleanup requirements.
6. Third Street is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities conducted under this Approval. If at any time Third Street has or receives information indicating that Third Street or any other person has failed, or may have failed, to comply with any provision of this Approval, it must report the information to EPA in writing within 24 hours of having or receiving the information.

7. This Approval does not constitute a determination by EPA that the transporters or disposal facilities selected by Third Street are authorized to conduct the activities set forth in the Notification. Third Street is responsible for ensuring that its selected transporters and disposal facilities are authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.
8. This Approval does not: 1) waive or compromise EPA's enforcement and regulatory authority; 2) release Third Street or the current property owner from compliance with TSCA or any applicable requirements of federal, state or local law; or 3) release Third Street or the current property owner from liability for, or otherwise resolve, any violations of TSCA or other federal, state or local law.
9. Failure to comply with the Approval conditions specified herein shall constitute a violation of the requirement in 40 CFR § 761.50(a) to store or dispose of PCB waste in accordance with 40 CFR Part 761 Subpart D.

NOTIFICATION AND CERTIFICATION CONDITIONS

10. This Approval may be revoked if the EPA does not receive written notification from Third Street of its acceptance of the conditions of this Approval within 10 business days of receipt.
11. Third Street shall notify EPA in writing of the scheduled date of commencement of on-site activities at least 1 business day prior to conducting any work under this Approval.
12. Prior to initiating onsite work under this Approval, Third Street shall submit the following information:
 - a. a certification signed by its selected remediation contractor, stating that the contractor has read and understands the Notification, and agrees to abide by the conditions specified in this Approval;
 - b. a contractor work plan detailing the specific methods for air monitoring, and removal, decontamination, storage (including a diagram of the PCB waste storage area), if applicable, and disposal of PCB-containing wastes. Third Street and its remediation contractor shall incorporate any changes EPA deems necessary to comply with the conditions of this Approval and the PCB Regulations at 40 CFR Part 761; and,
 - c. a certification signed by the selected analytical laboratory, stating that the laboratory has read and understands the sample preparation, extraction, analytical and quality assurance requirements specified in the Notification and in this Approval.

CLEANUP AND DISPOSAL CONDITIONS

13. The cleanup level for *PCB remediation waste* (e.g., soil) at the Site shall be less than or equal to (\leq) 1 part per million (ppm).
 - a. For grid locations identified as B18, B19, C16, F16, K14, and L14 :
 - i) Post-excavation discrete samples shall be collected at a depth of 8 feet below ground surface (ft bgs) at a frequency of 1 sample per grid to confirm that all greater than or equal to (\geq) 50 ppm *PCB remediation waste* has been removed.
 - ii) In the event that all sampling results are < 50 ppm, the remaining *PCB remediation waste* (PCB-contaminated soil greater than 8 ft bgs) shall be removed and disposed of in accordance with either 40 CFR § 761.61(a)(5)(i)(B)(2)(ii) or 40 CFR § 761.61(a)(5)(i)(B)(2)(iii)
 - b. Post-excavation discrete samples shall be collected from Subarea B2 and grid locations K14, L14, F16, C16, B18, and B19 once the final excavation depth of 12 feet is achieved in accordance with 40 CFR Part 761 Subpart O to confirm that all greater than ($>$) 1 ppm *PCB remediation waste* has been removed. Samples shall be collected on a bulk basis (i.e., mg/kg) and reported on a dry weight basis.
 - c. Chemical extraction for PCBs shall be conducted using Methods 3500B/3540C of SW-846 for solid matrices and Method 3500B/3510C of SW-846 for aqueous matrices; and, chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another extraction or analytical method(s) is validated according to Subpart Q.
14. All PCB waste (regardless of concentration) generated as a result of the activities described in the Notification, excluding any decontaminated materials, shall be marked in accordance with § 761.40; stored in a manner prescribed in § 761.65; and, disposed of in accordance with 40 CFR § 761.61(a)(5), unless otherwise specified below:
 - a. Decontamination wastes and residues shall be disposed of in accordance with 40 CFR § 761.79(g).

- b. Moveable equipment, tools, and sampling equipment shall be decontaminated in accordance with either 40 CFR § 761.79(b)(3)(i)(A), § 761.79(b)(3)(ii)(A), or § 761.79(c)(2).
- c. PCB-contaminated water generated during decontamination or dewatering shall be decontaminated in accordance with 40 CFR § 761.79(b)(1) or disposed of under § 761.60.

INSPECTION, MODIFICATION AND REVOCATION CONDITIONS

- 15. Third Street shall allow any authorized representative of the Administrator of the EPA to inspect the Site, to inspect records, and to take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by Third Street to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.
- 16. Any proposed modification(s) in the plan, specifications, or information in the Notification must be submitted to EPA no less than 14 calendar days prior to the proposed implementation of the change. Such proposed modifications will be subject to the procedures of 40 CFR § 761.61(a)(3)(ii).
- 17. Any departure from the conditions of this Approval without prior, written authorization from the EPA may result in the revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
- 18. Any misrepresentation or omission of any material fact in the Notification or in any records or reports may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
- 19. Approval for these activities may be revoked, modified or otherwise altered: if EPA finds a violation of the conditions of this Approval or of 40 CFR Part 761, including EPA's PCB Spill Cleanup Policy, or other applicable rules and regulations; or, if EPA finds that these activities present an unreasonable risk to public health or the environment.

RECORDKEEPING AND REPORTING CONDITIONS

20. Third Street shall prepare and maintain all records and documents required by 40 CFR Part 761, including but not limited to the records required under Subparts J and K. A written record of the cleanup and the analytical sampling shall be established and maintained by Third Street in one centralized location until such time as EPA authorizes, in writing, an alternative disposition for such records. All records shall be made available for inspection by authorized representatives of EPA.
21. Third Street shall submit a final completion report to EPA in both hardcopy and electronic (e.g., CD-ROM) formats, within 60 days of completion of the activities authorized under this Approval. At a minimum this final completion report shall include: a short narrative of the cleanup and disposal activities, with photo documentation and Greener Cleanups BMP documentation, if implemented; characterization and confirmation sampling analytical results (as applicable); copies of the accompanying analytical chains of custody; field and laboratory quality control/quality assurance checks; an estimate of the quantity of PCB waste disposed of and the size of the remediated area(s); copies of manifests and/or bills of lading; copies of certificates of disposal or similar certifications issued by the disposer; and the estimated cost of the PCB cleanup, if known.
22. Required submittals shall be mailed to:

Kimberly N. Tisa, PCB Coordinator (OSRR07-2)
United States Environmental Protection Agency
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912
Telephone: (617) 918-1527
Facsimile: (617) 918-0527
23. No record, report or communication required under this Approval shall qualify as a self-audit or voluntary disclosure under EPA audit, self-disclosure or penalty policies.

END OF ATTACHMENT 1